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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
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EXAMINER

BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/665,482

Applicant(s)

KIM, PETER H. I.

Examiner

Namrata Boveja

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-17,19-26 and 28-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-17,19-26, 28-32, and 37-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 33-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2000 and 19 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to communication filed on 10/12/2006.
2. Claims 4, 18, and 27 have been cancelled. Claims 1-3, 5-17, 19-26, 28-32, and 37-38 are presented for examination.
3. Amendments to claims 1, 3, 11-15, 17, 25-26, 28-32, and 37-38 have been entered and considered.
4. The previously made restriction is maintained.
5. *Previously* submitted claims 33-36 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
 - I. Claims 1, 3, 11-15, 17, 25-26, 28-32, and 37-38, drawn to a method and system for providing a centralized polling environment, comprising the steps of creating and archiving polls in a storage area, searching the archived poll by selecting polls that are more relevant to a user based on the user responses to previous polls, placing polls on a web page, wherein archiving includes comprises of seeking and obtaining approval based on poll content, delivering the web page to a user, and building a user profile based on said interaction, classified in class 705, subclass 14.
 - II. *Claims 33-36, drawn to a method for providing a centralized polling environment, comprising the steps of receiving and archiving a first poll from a first user, selecting a first poll for*

placement in a web page corresponding to a first affiliate, based on the identity of said first affiliate and second affiliate and first user and second user requesting the page respectively, delivering the first poll to the first affiliate to permit viewing and interaction in real time by first user and to the second user, updating the profile for said first user and the second user based on the interaction, wherein first customer and first affiliate are different, and classified in class 705, subclass 14.

6. *Inventions of groups I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of group II has separate utility such as selecting a first poll for placement in a web page corresponding to a first affiliate, based on the identity of said first affiliate and first user requesting the page, delivering the poll to the first affiliate to permit viewing and interaction in real time by first user and to the second user, updating the profile for said first user and the second user based on the interaction, wherein first customer and first affiliate are different, which does not involve searching the archived poll by selecting polls that are more relevant to a user based on the user responses to previous polls, building a user profile based on said interaction, and having a single user instead of two users. See MPEP § 806.05(d).*

Because these inventions are distinct for the reasons given above and

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have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. *Claims 1, 3, 15, 17, 29, and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, there is no support for the newly added claim limitation of said archiving step further comprising seeking and obtaining approval to archive based on said audience rating of each of said polls. Furthermore, the Applicant has failed to identify support for this limitation in the specification in the submitted amendment. It is interpreted to mean that the surveys are archived in a storage area. Appropriate correction is required.*

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8. *The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:*

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

There are two separate requirements set forth in this paragraph:

(A) the claims must set forth the subject matter that applicants regard as their invention; and

(B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, since the recitation that the "searching step further includes selecting polls" is unclear and doesn't recite how this actually happens. Specifically, searching and selecting are both functions. So, the use of the term that the searching step comprises of another function is unclear. It is interpreted to mean that first the Applicant performs the function of searching and then the Applicant performs the additional function of selecting. As stated, it is unclear what is the Applicant's trying to claim here. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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9. *Claims 1-38 are rejected under 102(e) as being anticipated by Hamlin et al (6,477,504 hereinafter Hamlin).*

Disclaimer: *Claims 1 and 3 were found to be deficient under U.S.C. 112 first paragraph. To the extent the claimed invention was understood, the following art was applied.*

In reference to claims 1 and 3, Hamlin discloses a method of providing remote users with a centralized polling environment, comprising the steps of: creating polls (col. 6, lines 38 to col. 9 lines 35 and Figure 2B and 3-5); assigning an audience rating to said polls (col. 9 lines 36 to col. 10 lines 8 and Figures 2B and 5); archiving said polls in a storage area (col. 11 lines 12-50); determining an audience rating level of an affiliated website (col. 11 lines 59 to col. 12 lines 7 and col. 12 lines 64-66); searching said archived polls to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls (col. 12 lines 18-29 and col. 12 lines 51 to col. 13 lines 2) and that do not exceed said audience rating level of said affiliated website (col. 11 lines 59 to col. 12 lines 7); placing one of said selected polls in a Web page of said affiliated website (col. 12 lines 18-29); delivering said Web page to permit user viewing and interaction with said one of selected polls in real time (col. 12 lines 18 to col. 13 lines 2); and updating an existing profile for said user based on said interaction (i.e. creating a profile and updating information to indicate a user has already completed a survey) (col. 12 lines 51-63 and col. 13 lines 21-34).

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10. In reference to claims 2 and 16, Hamlin discloses the method wherein said creating step further comprises forming a question and a plurality of possible answer choices for each of said polls (col. 7 lines 29 to col. 9 lines 35 and Figures 3 and 4).

11. In reference to claims 5 and 19, Hamlin discloses the method wherein said searching step further comprises searching for matching terms within poll content descriptors associated with respective ones of said archived polls (col. 12 lines 18-29 and 51-63).

12. In reference to claims 6 and 20, Hamlin implicitly discloses searching function comprises defining said matching terms according to a marketing campaign (col. 9 lines 36-53 and col. 12 lines 18-29 and 51-63).

13. In reference to claims 7 and 21, Hamlin discloses the method wherein said placing step further comprises embedding a new reference link with said web page (i.e. a banner ad hyperlink is presented on the web page) (col. 12 lines 8-50).

14. In reference to claims 8 and 22, Hamlin discloses embedding a new reference link written in JavaScript (col. 6 lines 26-37).

15. In reference to claims 9 and 23, Hamlin discloses positioning said selected poll in a predefined area of said webpage (i.e. poll is positioned as link from a banner ad on a webpage) (col. 6 lines 26-37 and col. 12 lines 30-44).

16. In reference to claims 12, 26, and 32, Hamlin discloses the method further including: building a new profile for said user when said user is not associated

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with an existing profile (i.e. data is collected and stored about a user) (col. 12 lines 51-55).

17. *In reference to claims 13 and 27, Hamlin discloses the method wherein, the user is associated with said existing profile via a cookie embedded on a user computer (col. 12 lines 18-29 and col. 13 lines 18-34).*

18. *In reference to claims 14 and 28, Hamlin discloses the method wherein, said building step further comprises archiving said new profile in said storage area (i.e. information about a user is stored) (col. 12 lines 18-29 and col. 13 lines 18-34).*

19. **Disclaimer:** *Claims 15 and 17 were found to be deficient under U.S.C. 112 first paragraph. To the extent the claimed invention was understood, the following art was applied.*

In reference to claims 15 and 17, Hamlin teaches a computer-implemented system for delivering information to users, comprising: an application server connected to a network (col. 3 lines 34 to col. 5 lines 27 and Figure 1), said application server coupled to a first database comprising an archive of polls (col. 11 lines 51 to col. 12 lines 63), said application server being responsive to requests from a user computer of said network for particular polls from said first database (col. 11 lines 51 to col. 12 lines 63); a Web server connected to said network and hosting a website said website having an audience rating level (Figure 1), said Web server being responsive to request messages from a user computer for a particular Web page from said website and to thereby deliver said particular Web page to said user computer (col. 12 lines

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18-29), said particular Web page containing a reference link to polls archived said first database (col. 11 lines 51 to col. 12 lines 63 and Figures 1 and 2); and an administrative processor coupled to said application server, said administrator processor executing instructions to provide the functions of: creating new polls (col. 6, lines 38 to col. 9 lines 35 and Figure 2B and 3-5); rating (col. 9 lines 36-53); assigning an audience rating to said new polls (col. 9 lines 36 to col. 10 lines 8 and Figures 2B and 5); archiving said new polls in said first database (col. 11 lines 12-50); searching said archived polls based on predefined search criteria to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls (col. 12 lines 18-29 and col. 12 lines 51 to col. 13 lines 2) and that do not exceed said audience rating level of said website (col. 11 lines 59 to col. 12 lines 7); placing one of said selected polls in a Web page from said website (col. 12 lines 18-29); delivering said Web page to permit user viewing and interaction with said one of selected polls in real time (col. 12 lines 18 to col. 13 lines 2); and updating an existing profile for one said user based on said interaction with said one of selected polls (i.e. creating a profile and updating information to indicate a user has already completed a survey) (col. 12 lines 51-63 and col. 13 lines 21-34).

20. **Disclaimer:** Claim 29 was found to be deficient under U.S.C. 112 first paragraph. To the extent the claimed invention was understood, the following art was applied.

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In reference to claim 29, Hamlin discloses a method of providing remote users with a centralized polling environment, comprising the steps of: creating polls (col. 6, lines 38 to col. 9 lines 35 and Figure 2B and 3-5); assigning an audience rating to said polls (col. 9 lines 36 to col. 10 lines 8 and Figures 2B and 5); archiving said polls in a storage area (col. 11 lines 12-50); searching said archived polls to provide a selected set of said poll placing one of said selected polls in a Web page (col. 12 lines 18-29, col. 12 lines 18-29, and col. 12 lines 51 to col. 13 lines 2); delivering said Web page to permit user viewing and interaction with said one of selected polls in real time (col. 12 lines 18 to col. 13 lines 2); and updating an existing user profile of said user based on said interaction (i.e. creating a profile and updating information to indicate a user has already completed a survey) (col. 12 lines 51-63 and col. 13 lines 21-34).

21. **Disclaimer:** Claim 30 was found to be deficient under U.S.C. 112 second paragraph. To the extent the claimed invention was understood, the following art was applied.

In reference to claim 30, Hamlin discloses a method wherein searching step further includes selecting polls that do not exceed an audience rating level of a website hosting said Web page (col. 11 lines 59 to col. 12 lines 7).

22. **Disclaimer:** Claim 31 was found to be deficient under U.S.C. 112 first paragraph. To the extent the claimed invention was understood, the following art was applied.

In reference to claim 31, Hamlin discloses a computer-implemented system for delivering information to users, comprising: an application server

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connected to a network (col. 3 lines 34 to col. 5 lines 27 and Figure 1), said application server coupled to a first database comprising an archive of polls (col. 11 lines 51 to col. 12 lines 63), said application server being responsive to requests from a user computer of said network for particular polls from said first database (col. 11 lines 51 to col. 12 lines 63); a Web server connected to said network and hosting a website said website having an audience rating level (Figure 1), said Web server being responsive to request messages from a user computer for a particular Web page from said website and to thereby deliver said particular Web page to said user computer (col. 12 lines 18-29), said particular Web page containing a reference link to polls archived said first database (col. 11 lines 51 to col. 12 lines 63 and Figures 1 and 2); and an administrative processor coupled to said application server, said administrative processor executing instructions to provide the functions of: creating new polls (col. 6, lines 38 to col. 9 lines 35 and Figure 2B and 3-5); assigning an audience rating to said polls (col. 9 lines 36 to col. 10 lines 8 and Figures 2B and 5); archiving said new polls in said first database (col. 11 lines 12-50); determining an audience rating level of said website (col. 11 lines 59 to col. 12 lines 7 and col. 12 lines 64-66); searching said archived polls based on predefined search criteria to provide a selected set of said polls and that do not exceed said audience rating level of said website (col. 11 lines 59 to col. 12 lines 7); placing one of said selected polls in a Web page from said website (col. 12 lines 18-29); delivering said Web page to permit user viewing and interaction with said one of selected polls in real time (col. 12 lines 18 to col. 13 lines 2); and updating an existing profile for said user based on

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said interaction with said one of selected polls (i.e. creating a profile and updating information to indicate a user has already completed a survey) (col. 12 lines 51-63 and col. 13 lines 21-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. *Claims 10, 24, 37, and 38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin in view of Boe et al. Patent Number 6,236,975 (hereinafter Boe).*

In reference to claims 10 and 24, Hamlin does not teach the method wherein said delivering step further comprises refreshing said Web page and providing results of said one of selected polls within said Web page. Boe teaches refreshing the webpage (see at least col. 10 lines 23-50; col. 12 lines 3-11; col. 14 lines 39-41) and providing results of said one of selected polls within said a webpage (Figs. 4e and associated text; col. 11 line 50 to col. 12 line 11; col. 14 lines 39-41). It would have been obvious to modify Hamlin to include refreshing said Web page and providing the results of said on of the selected polls within said Web page as taught by Boe, in order to provide the results of the polls instantly to users in real-time and make the polling more interesting and

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interactive and thereby motivate future participation in other polls by the same users.

24. *In reference to claim 37, Hamlin does not teach the method further comprising selecting advertising content based on said existing profile, associating the advertisement with a second one of said selected polls, placing the second one of said selected polls and the associated advertisement in a Web page, and delivering the Web page to permit user viewing advertisement and interaction with the second poll and the associated advertisement. Boe teaches the method further comprising selecting advertising content based on said existing profile, associating the advertisement with a second one of said selected polls, placing the second one of said selected polls and the associated advertisement in a Web page, and delivering the Web page to permit user viewing advertisement and interaction with the second poll and the associated advertisement (col. 6 lines 47 to col. 7 lines 8 and Fig. 4b and 4d and associated text). It would have been obvious to modify Hamlin to include advertising content based on an existing profile and attaching the advertising content with the second poll to enable the administrator to increase revenues from the poll and from the accompanying advertisement while presenting the user taking the poll with advertisement that is relevant. Furthermore, it would be obvious to include the advertisement with a second poll, since more than one poll may be administered based on the results of the first poll to capture more in depth information from the users that the advertisers want to target.*

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25. *In reference to claim 38, Hamlin does not teach the method further comprising updating the said existing profile based on the interaction with the second poll (col. 6 lines 58 to col. 7 lines 8). Boe teaches the method further comprising updating the said existing profile based on the interaction with the second poll (col. 6 lines 58 to col. 7 lines 8). It would have been obvious to modify Hamlin to include updating the said existing profile based on the interaction with the second poll, since Hamlin already updates the profile based on a given poll, and updating the profile based on the second poll would lead to more accurate profile of the user that will be more valuable to the polling parties.*

26. *Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin in view of Official Notice.*

In reference to claim 11, Hamlin does not disclose the method wherein said building audience rating is an established audience rating selected from the group consistent of general audience (G), parental guidance suggested for those 13 years of age or younger (PG- 13), and restricted for those under 17 years of age (R). However, Official Notice is taken that using an MPAA rating for rating contents is well known as done for rating movies so that parents and adults can know the rating of the content of the movies before watching the movie and decide if it is appropriate for them to see it. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use this type of a rating scale in the polls generated in Hamlin in order to enable the user to know the rating of the content of the polls without taking the actual poll and thereby giving the user an opportunity to decide if he is interested in

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given a particular poll. Furthermore, since the MPAA rating scheme is well known and recognized, a user will not need a lot of information about the rating scale if it is used to rate polls, since the user will already be familiar with this rating scale from having seen movies.

Response to Arguments

27. After careful review of Applicant's remarks/arguments filed on 10/12/2006, the Applicant's arguments with respect to claims 1-3, 5-17, 19-26, 28-32, and 37-38 have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to the claims have both been entered and considered.

28. The previous 112 Rejections are being removed, since the Applicant's amendments to the claims sufficiently addresses the issues previously raised by the Examiner in this case, however Applicant's amendments have raised new 112 issues and have caused the introduction of new 112 Rejections as detailed in the above action.

29. The restriction for claims 33-36 is maintained. Specifically, the invention claimed in claims 33-36 has separate utility such as selecting a first poll for placement in a web page corresponding to a first affiliate, based on the identity of said first affiliate and first user requesting the page, delivering the poll to the first affiliate to permit viewing and interaction in real time by first user and to the second user; updating the profile for said first user and the second user based on the interaction, wherein first customer and first affiliate are different, which does not involve searching the archived poll by selecting polls that are more relevant to a user based on the user responses to previous polls, building a user profile

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based on said interaction, and having a single user instead of two users that is claimed in the invention claimed in claims 1, 3, 11-15, 17, 25-26, 28-32, and 37-30. Therefore, the restriction is proper and is maintained.

31. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR


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system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

NB

N.B.

December 24th, 2006


RETTA YEHDEGA
PRIMARY EXAMINER